Ngā Kaitiaki Rēti Ngahere Karauna

CROWN FORESTRY RENTAL TRUST

# Establishing
# **Eligibility For Assistance**
# From
# The Crown Forestry Rental Trust

This Information Sheet explains the requirements for Māori claimant groups to establish eligibility for assistance from the Crown Forestry Rental Trust ('the Trust').

| **Step 1: Establish Eligibility** |
| --- |
| ↓ |
| Step 2: Apply For Funding |

Step 2: Apply For Funding is covered in a separate information sheet: 'Applying For Funding From the Crown Forestry Rental Trust.'

The Trust's Information Sheets are available:

- on our website - http://www.cfrt.org.nz/storehouse/publications/
- by phoning us - (04) 915 1500
- by calling at - Level 2, Vogel Building, 8 Aitken Street, Wellington.

Ngā Kaitiaki Rēti Ngahere Karauna
CROWN FORESTRY RENTAL TRUST

**Contents**



# Who Is Eligible?

If you are a Māori claimant group with Waitangi Tribunal claims, which involve, or could involve, Crown forest licensed land, you may be eligible for Trust assistance. Applicants who establish eligibility will then be able to apply for assistance from the Trust.

The Trust's role is to assist Māori claimants in the preparation, presentation and negotiation of claims before the Waitangi Tribunal, which involve, or could involve, Crown forest licensed land.

The Trust's eligibility requirements have been designed in accordance with our Trust Deed, to provide assurance that an applicant group has the ability to both manage any funds it might receive from the Trust and to complete the settlement process.

Applying the eligibility requirements enables the Trust to provide assistance to as many eligible claimants as possible in the most effective and efficient way, and ensure that this assistance results in material progress towards the resolution of claims over Crown forest licensed land.

# What Is Required To Establish Eligibility

Claimant groups must meet the following two requirements to establish eligibility for assistance from the Trust.

| | | |
|---|---|---|
| **Step 1: Establish Eligibility** | **Requirement 1:** Enter A Settlement Pathway | Demonstrate your group meets the requirements of the Trust for entering either:<br>○ the Waitangi Tribunal pathway, or<br>○ the direct negotiations (Office of Treaty Settlements) pathway. |
| | **Requirement 2:** Demonstrate Organisational Capability And Fit With Crown Priorities | Demonstrate your group meets the Trust's requirements for organisational capability and financial accountability, and that your claim is viewed as a priority by either the Waitangi Tribunal or Office of Treaty Settlements. |

# About Requirement 1: Enter A Settlement Pathway

The Trust will consider funding applications only for settlement options within the current legislation and Government policy frameworks.

Groups seeking the Trust's assistance must demonstrate they have elected to advance their claims by either:

- the Waitangi Tribunal pathway, or
- the direct negotiations (Office of Treaty Settlements) pathway.

The Trust has a somewhat different set of requirements for each pathway, detailed on the following pages.

# Trust Requirements For The Waitangi Tribunal Pathway

## About The Waitangi Tribunal Pathway

The Waitangi Tribunal provides a public forum in which Māori may set out their claims against the Crown.

Once a claim is registered, the claim is researched and hearings are then held at which claimants and the Crown present their cases. At the conclusion of the hearings, the Tribunal considers the evidence and then reports its findings, making recommendations to the Crown where necessary.

The whole process summarised here can take many years to complete and will require substantial research.

Once the Tribunal has reported and following the establishment of breaches of the Treaty, claimants then sit down with the Government to negotiate a settlement. This negotiation process is exactly the same as the direct negotiations process.

For more information about the Waitangi Tribunal:

- website - http://www.waitangi-tribunal.govt.nz
- phone - (04) 914 3000.

## Trust Requirements For Entering The Waitangi Tribunal Pathway

**The applicant must have a claim registered with the Waitangi Tribunal that involves Crown forest licensed land.**

The Trust requires applicants to have their claims registered with the Waitangi Tribunal before considering them for assistance. The registration of a claim is effectively a statement of a person's or group's commitment to the claims process. This is important because the Trust needs assurance that any funding and assistance it provides goes to claimants who are committed to achieving a settlement. The physical description of this claim, as set out in your statement of claim, must include a Crown forest area.

**The applicant must represent a 'cluster' of claimants or a claim made on behalf of a significant proportion of all potential claimants to Crown forest land in that Waitangi Tribunal inquiry district.**

Many of the issues claimants face in a Waitangi Tribunal inquiry district will be similar. Often, a single historical report will cover the issues of numerous claimants.

The Trust's resources are used more efficiently if claimants cluster together, to avoid duplication of work and costs. Working together also allows more efficient communication of progress within the wider claimant community.  For these reasons, the Trust will not consider funding individual or whānau claims.

Additionally, the Trust will not automatically fund a group simply because it has formed a cluster.  The Trust wants to be assured that any cluster will be likely to achieve the aims of the claimants, the settlement of their claimants and from the Trust's perspective the efficient and effective use of Trust funding.

In practice, a cluster will be responsible for determining for itself how it will operate.  We recommend, however, that the way the cluster will operate be set out clearly in an agreement, to be signed by all parties.

As soon as a district receives priority from the Waitangi Tribunal for hearings, the Trust will provide claimants with information on:

- what clusters are
- why they are important
- how to form them.

In some instances, a single claim may have been registered which represents the majority of claimants in a given district.

In this case, the need for efficiency will be met by funding that single claim.  It will be the responsibility of applicants to demonstrate conclusively that a significant proportion of potential claimants do support the application.  Such evidence can best be obtained by holding well-advertised hui at which people can indicate their support.  If you believe you may be eligible under this requirement, it is strongly recommended that you speak to the Trust before undertaking the hui.

# Trust Requirements For The Direct Negotiations Pathway

## About The Direct Negotiations Pathway

Claimants can elect to go straight into negotiations with the Government via the Office of Treaty Settlements (OTS) to settle their claim. This can speed up the settlement process considerably.

Claimants select representatives from amongst themselves who are then authorised to negotiate the settlement. As with the Tribunal process, research must be undertaken to establish breaches of the Treaty. Claimants and the Government then reach agreement on the breaches of the Treaty that occurred, and on that basis negotiate the settlement.

Once the settlement has been negotiated and agreed to by the claimant group and the Government, the settlement assets are handed over to a claimant governance body established for that purpose, and often legislation is passed to confirm the finality of the settlement.

For more information about the Office of Treaty Settlements:

- website - http://www.ots.govt.nz/
- phone - (04) 494 9800.

## Trust Requirements For Entering The Direct Negotiations Pathway

As with the Waitangi Tribunal process, it is important for the Trust that those groups seeking assistance with the direct negotiations process are likely to reach a settlement with the Crown.

For this reason, the Trust looks for an indication of both the Crown's readiness to negotiate with the group, as well as the group's commitment to going through the process. Both of these requirements are best shown by providing the Trust with proof of one of the following:

- The applicant group possesses a Crown-recognised mandate to negotiate on behalf of the claimants, or
- The applicant group has a comprehensive, realistic and achievable plan for carrying out the mandating process supported by OTS.

The intended negotiations must also relate to a claim which involves Crown forest licensed land. If the above applies to your group, you will be required to present evidence with your application form to support this.

If your group is not yet mandated, and you have not yet spoken with either OTS or Te Puni Kokiri, we encourage you to speak to both of these organisations, as they are able to advise you on how best to undertake the mandating process.

Please note that the Trust requirements above for entering the direct negotiations pathway also apply for those groups that have previously gone through the Waitangi Tribunal and are now seeking to conclude a settlement.

# About Requirement 2: Demonstrate Organisational Capability And Fit With Crown Priorities

## Demonstrating Organisational Capability

Applicant groups must have the ability to manage any funds that may be allocated and the work that will be required to get through the process. This is especially the case with direct negotiations where claimants are responsible for managing most of the process themselves and can be responsible for large sums of money at any one time.

As part of assessing your eligibility you will be asked for information to demonstrate that you have the capability required in terms of:

- governance
- organisational management
- financial management.

The Trust's capability assessments are based on:

- documented evidence or other information supplied by claimant groups when submitting their application for eligibility, and
- any information held by the Trust about the claimant groups, usually from past involvements with these groups.

Only applicants who are assessed as having the appropriate level of capability can then apply for funding assistance.

Where the Trust has previously seen evidence to support a claim, we will only need to see it again in cases where it has been amended, or there has been a significant time lapse (e.g. two years) since the evidence was last seen.

The Trust will not always require copies of policy manuals or other documents to keep as evidence but it may request to see these documents and then return them to you. Photocopies of legal or verified documents are adequate. We suggest that you discuss how you present evidence of capability with one of the Trust's Relationship Managers.

The Trust will monitor any changes in the claimant group's board, management, personnel, structure and nature of business and may then need to request renewed sources of evidence as a result of these changes. Any significant changes to the organisation or internal conflicts, which may affect its capability or its relationship with the Trust, must be reported in writing to the Trust as soon as possible.

## How The Trust Assesses Governance Capability

Our objective is to determine whether or not the applicant has a governance board that is committed to providing the vision, leadership, and direction for a settlement programme. (We use 'board' to apply to whatever form the applicant group's legal governance entity takes, and the Trust's requirements for governance capability remain applicable to all structures, including company, incorporated society, trust or other.)

The board must be able to provide evidence that it is acting in the best interests of the potential claimant group. Therefore, board meetings need to be managed and recorded in a way that will ensure that there are transparent decision-making processes.

The quality of governance depends to a large extent on the interaction between the governance board, the management structure and staff and the way in which decisions of the board are taken, communicated and implemented.

Specifically, the board must be clear on the following:

- its roles, responsibilities and functions
- how board members are appointed and discharged
- how conflicts of interest are identified and managed
- how board meetings are managed
- how decisions are made and recorded
- its strategic plan, including how it identifies and manages risk
- its financial control and delegation policies
- its communication strategies.

Potential sources of evidence for assessing governance capability include:

- business plan or statement of intent
- audit reports
- communications strategy
- minutes of board meetings
- legal status certificate
- annual reports
- board policy and procedures manual.

## How The Trust Assesses Organisational And Management Capability

Management is responsible for the day-to-day operation of the organisation, providing the services and activities required to make progress in settling its claim, and ensuring that the strategic direction set by the board is implemented.

The Trust wishes therefore to identify the following:

- management structure, roles and functions
- how management plans to implement the board's strategic direction
- how management plans to manage risks, meet employment and human resource requirements, including complaints, conflicts of interest and dispute resolutions
- how management reports progress back to the board
- how management communicates and the internal systems (including IT) that it uses to manage its work.

Potential sources of evidence for assessing organisational and management capability include:

- minutes of management meetings
- management reports
- annual reports
- funding proposals
- business plan
- communications strategy
- stakeholder/claimant management plan
- organisational chart
- project plans
- project reports
- policy and procedures manuals.

### How The Trust Assesses Financial Capability

The Trust wishes to be sure that the organisation is financially viable and manages its finances competently. We look for financial management policies, procedures and systems that are transparent and can account for allocated funding.

The organisation must have sufficient checks and balances in its financial system, such as those listed below, to be able to guard against mismanagement of funds:

- chartered accountants
- independent auditors
- annual audited accounts
- internal expenditure controls
- regular reporting of expenditure against budgets
- management of cash flows
- insurance
- taxation policies and processes.

Potential sources of evidence for assessing financial capability include:

- financial policies and practices
- financial reports
- most recent independently audited accounts
- payment, monitoring and tracking systems
- receipts for payments
- separate bank accounts (particularly if the claimant group is associated with an umbrella group).

## Demonstrating Fit With Crown Priorities

The final requirement for establishing eligibility to apply for Trust funding concerns Crown priorities, including those of the Office of Treaty Settlements and the Waitangi Tribunal. The Trust must take into account how well the application meets priorities and policy statements from both the Waitangi Tribunal and the Crown when considering an application.

If Crown priorities mean that an applicant's claim will not be dealt with in a reasonable time, the applicant may still be deemed eligible to become a Trust client, but the Trust reserves the right to defer assistance at its sole discretion to support groups given greater priority by the Crown.

# Applying For Funding Assistance

Claimant groups that have successfully established eligibility will then be able to apply for assistance from the Trust.

## How To Apply

If your group has successfully established eligibility, you will be invited to submit an application to receive funding assistance from the Trust.

In practice, this application will comprise a business plan setting out the intended work and a detailed budget that must meet the Trust's requirements for funding to gain approval. What we require is covered in a separate information sheet: 'Applying For Funding From The Crown Forestry Rental Trust.'

Trust staff are also available to identify what the Trust requires in a business plan.

Note: claimant groups are required to maintain eligibility, in order to continue receiving any Trust assistance. Once granted, Trust assistance will cease if a claimant group does not maintain its eligibility.

# Definition of Terms and Agencies

- **Client** - an applicant who has successfully completed the Stage One application process and has been deemed eligible to apply for Trust assistance.
- **Cluster** - a group of WAI numbers within a Waitangi Tribunal inquiry district which share common or similar issues, whakapapa or geography (or a combination of the three).
- **Crown forest licensed land** - Crown lands as defined by Section 2 of the Crown Forest Assets Act 1989.
- **Mandate** - a mandate is an authority to act on behalf of other people, which has been accepted by the Office of Treaty Settlements, as agent for the Crown.
- **Office of Treaty Settlements** ('OTS') - a government agency established to negotiate, on behalf of the Crown, settlement of historical Treaty of Waitangi claims.
- **Waitangi Tribunal**- a government agency established under the Treaty of Waitangi Act 1975 to hear claims made by Māori against the Crown, and to make recommendations in light of its findings.
- **Waitangi Tribunal inquiry district** - the Tribunal hears claims by geographical district according to a forward programme issued by the Tribunal from time to time in its Business Strategy, or by direction. When a district is being made ready for the hearing of the claims arising within it, the preparatory work will start with a two-year intensive research programme, with the Crown Forestry Rental Trust funding the bulk of claimant research and the Tribunal itself funding generally gap-filling inquiry research.

## Contact Information


**Crown Forestry Rental Trust,**
Level 2, Vogel Building,
8 Aitken Street,
P O Box 2219,
Wellington.

Phone - (04) 915 1500

Fax - (04) 916 7806

Email - enquiries@cfrt.org.nz

Website - www.cfrt.org.nz